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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,936	03/11/2004	Sandeep Gupta	Q80456	4210
23373	7590	11/22/2005		
SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037			EXAMINER RAO, DEEPAK R	
			ART UNIT 1624	PAPER NUMBER

DATE MAILED: 11/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/797,936	GUPTA ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Deepak Rao	1624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 28 October 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-14  are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-14  are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date: _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date: _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

This office action is in response to the amendment filed on October 28, 2005.

Claims 1-14 are pending in this application.

#### *Response to Amendment*

The amendments filed on March 11, 2004 and October 3, 2005 were not in accordance with 37 CFR 1.173(b)(2). These amendments indicated that “The listing will replace all prior versions and listings of the claims”, however, the listing did not provide **all** pending claims in the application. Accordingly, applicant was requested to file a supplemental amendment, listing all the pending claims and showing all amendments to the claims.

The claims presented in the supplemental amendment filed October 28, 2005 have not been amended in accordance with 37 CFR 1.173(b)(2), which requires that any changes to the claims must be shown by proper markings – (1) The matter to be omitted must be enclosed in brackets; and (2) the matter to be added must be underlined.

- In claim 1, the recitation “hydroxyl, alkynyloxy” was inserted in the last two lines, should be underlined.
- In claim 5, the recitation “aryl-thiocarbonyl” was inserted in place of [arylthio-carbonyl], which should be underlined.
- In claim 5, page 9, the term “~~heterocyclealkyl~~” should be replaced with -- [heterocyclcoalkyl] -- as all matter to be omitted must be enclosed in brackets.
- In claim 5, page 9, line 18, the term ‘ [the] ’ should be -- [teh] --, which is properly corrected by the insertion of “the”.

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- In claim 6, the last two compounds that are added to the claim must be underlined.
- In claim 8, page 14, the recitation “aryl-thiocarbonyl” was inserted in place of [arylthiocarbonyl], which should be underlined.
- In claim 9, the lines that are added, following ‘M is nitro’ must be underlined.
- In claims 10, 12, 13 and 14 the added recitation “ or 6” should be underlined.

***Withdrawn Rejections/Objections:***

Applicant is notified that any outstanding rejection/objection that is not expressly maintained in this office action has been withdrawn or rendered moot in view of applicant's amendments and/or remarks.

The Declaration by Dr. Haga under 37 CFR 1.132 filed October 12, 2005 is sufficient to overcome the rejection of claims 1, 2, 4, 7, 8 and 10-14 based upon WO 97/09319. In the declaration comparative data is submitted for the claimed compounds having the amino group at the 2-position comparing the corresponding compounds of the reference having the amino group at the 3-position and applicant submits that ‘the test results establish that the compounds having an amino group at the 3-position do not have excellent herbicidal activity’.

***Reissue Applications***

In accordance with 37 CFR 1.175(b)(1), a supplemental reissue oath/declaration under 37 CFR 1.175(b)(1) must be received before this reissue application can be allowed.

A supplemental oath/declaration under 37 CFR 1.175(b)(1) will be required where amendments or other corrections of errors in the patent have been made subsequent to the last oath/declaration filed in the application.

Claims 1-14 are rejected as being based upon a defective reissue oath or declaration under 35 U.S.C. 251. See 37 CFR 1.175. The nature of the defect is set forth above.

Receipt of an appropriate supplemental oath/declaration under 37 CFR 1.175(b)(1) will overcome this rejection under 35 U.S.C. 251. An example of acceptable language to be used in the supplemental oath/declaration is as follows:

“Every error in the patent which was corrected in the present reissue application, and is not covered by a prior oath/declaration submitted in this application, arose without any deceptive intention on the part of the applicant.”

**Note:** The list of references to be printed in the reissue patent includes all the references cited during the prosecution of the reissue application. See MPEP § 1455. Accordingly, the references cited in the original patent should be cited in the reissue application on a Form PTO-1449.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

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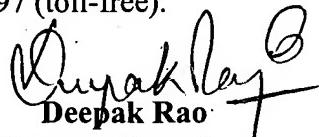
the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Deepak Rao whose telephone number is (571) 272-0672. The examiner can normally be reached on Tuesday-Friday from 6:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James O. Wilson, can be reached at (571) 272-0661. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-1600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Deepak Rao  
Primary Examiner  
Art Unit 1624

November 15, 2005